

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DIANA SNYDER and JACK SNYDER, as
parents and guardians of DOE, J.M., a minor,
and WILLIAM DUSSAULT, as Guardian ad
litem of DOE, J.M., a minor

Plaintiffs,

vs.

WENATCHEE PUBLIC SCHOOL
DISTRICT, a local government entity,

Defendant.

NO. CV-06-0012-JLQ
(Thurston County No. 05-2-01468-4)

ORDER DISMISSING PLAINTIFFS'
CLAIMS UNDER 42 U.S.C. § 1983,
REMANDING TO THURSTON
COUNTY SUPERIOR COURT, AND
CLOSING FILE

BEFORE THE COURT is the parties' Stipulation and Order to Dismiss Plaintiffs' Claim under Section 1983, For Remand to Thurston County and for Change of Venue to Chelan County Superior Court (Ct. Rec. 30). The parties should have filed a motion requesting an order dismissing Plaintiffs' claim and remanding to state court rather than filing a stipulation. However, the court will consider the filing as a motion.

This matter was originally filed in Thurston County Superior Court under its cause No. 05-2-01468-4, removed to the United States District Court for the Western District of Washington based upon alleged federal question jurisdiction, and thereafter transferred to this District. On March 2, 2006, this court held a telephonic status conference. Jonathan D. Sweigert represented the Plaintiffs. Michelle A. Corsi represented the Defendant. The court questioned subject matter jurisdiction and the parties discussed the issue.

In the resulting Scheduling Conference Order, the court ordered the Plaintiffs to notify the court on or before March 30, 2006, whether they intended to pursue the 42 U.S.C. § 1983 claim, or dismiss it and have the matter remanded to state court. When the deadline passed, on April 18, 2006, the court filed an Order to Show Cause Re:

1 Jurisdiction. The Plaintiffs were ordered to show cause as to what federal constitutional
2 violation(s) or laws they were asserting against the Wenatchee Public School District to
3 support their claim under 42 U.S.C. § 1983, which was the alleged basis for federal court
4 subject matter jurisdiction pursuant to 28 U.S.C. § 1331. In response, on April 28, 2006,
5 the parties filed the joint Stipulation and Order to Dismiss Plaintiffs' Claim under Section
6 1983, For Remand to Thurston County and for Change of Venue to Chelan County
7 Superior Court.

8 Accordingly, Plaintiffs' claims under 42 U.S.C. § 1983 are **DISMISSED with**
9 **prejudice** and the matter is **REMANDED** to Thurston County Superior Court. The
10 parties' stipulation to a change of venue to Chelan County is not properly brought before
11 this court. Instead, upon remand, the parties should file a motion with the Thurston
12 County Superior Court.

13 **IT IS SO ORDERED.** The Clerk of this court shall enter this Order, enter
14 judgment of dismissal of the 42 U.S.C. § 1983 claim, forward copies to counsel, furnish a
15 certified copy to the clerk of the Thurston County Superior Court of Washington, and
16 close the file.

17 **DATED** this 2nd day of May, 2006.

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19 s/ Justin L. Ouackenbush
20 JUSTIN L. QUACKENBUSH
21 SENIOR UNITED STATES DISTRICT JUDGE
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